COMMERCE—FEDERAL EMPLOYERS' LIABILITY ACT—EMPLOYMENT IN "INTERSTATE COMMERCE."—The plaintiff was a section foreman of the defendant with the duty of keeping the tracks in repair. Acting under instructions, he was on his way to repair a washout supposed to be on the main track, but was injured before he arrived there. It later appeared that the washout was on a spur track owned by a different corporation. *Held,* that the jury might infer that at the time of his injury he was engaged in interstate commerce within the EMPLOYERS' LIABILITY ACT, April 22, 1908, c. 149, 35 Stat. 65, (U. S. Comp. St. 1913, secs. 8657-8665), *Atlantic C. L. R. Co.* v. *Tomlinson,* (Ga. App. 1918), 94 S. E. 909.

In order for the plaintiff to recover he must show that the carrier was engaged in interstate commerce and that he was employed therein, *Pedersen* v. *Delaware, L. & W. Ry.,* 229 U. S. 146. To determine whether the employee is "employed in such commerce" the Supreme Court of the United States in the *Second Employers' Liability Cases,* 223 U. S. 1, 47, did not particularize, but contented itself with the broad doctrine that the employment must have a real or substantial connection with interstate commerce. The nature of the work being done at the time of the injury and its effect on interstate commerce is to be considered, *Lamphere* v. *Oregon R. & Nav. Co.,* 196 Fed. 336. But each case is to be decided in the light of its particular facts, *N. Y. Cent. & H. R. R. Co.* v. *Carr,* 238 U. S. 260, 263. In accord with these views it has been held that one engaged in repairing interstate tracks comes within the act, *Zikos* v. *Oregon R. & Nav. Co.,* 179 Fed. 893; *Jones* v. *Chesapeake & O. Ry. Co.,* 149 Ky. 566. If the railway accept freight on through bills of lading, though its tracks be entirely within the state, an employee engaged in repairing the tracks can recover under the act, *Cholerton* v. *Detroit, J. & C. Ry.,* (Mich., 1917), 165 N. W. 606; 16 MICH. L. REV. 385. But an employee working on a private spur, *In re Liberti,* 167 N. Y. S. 478, or doing local work on a short branch leading to a private smelter, *Southern Ry. Co.* v. *Murphy,* 9 Ga. App. 190, is not entitled to protection of the Act. An engineer injured on his way to the roundhouse where he was to take out an interstate train, *Mo., Kan. & Tex. Ry.* v. *Rentz,* (Tex. Civ. App. 1913), 162 S. W. 959, and an employee riding on a hand car furnished by the railroad to his work of pumping water for interstate trains, *Horton* v. *Oregon-Wash. R. & Nav. Co.,* 72 Wash. 503, have been held entitled to recover under the Act. In the instant case, however, the court extends the scope of the Act to include an employee who *thinks* he is on his way to engage in interstate commerce, but who would not have been engaged in interstate commerce if he had been sent to the spur track and no error had been made. What will be the next step?

COMMERCE — INTERSTATE TRANSPORTATION—INTOXICATING LIQUORS.— Petitioner was convicted of violating the prohibition laws of the state of Alabama, by having in his possession a large quantity of intoxicating liquors, while driving along the public roads of the state in an automobile. It appeared, and the petitioner set it up as a defense, that the carrying of the liquors in question was a part of an interstate shipment. *Held,* that the state

prohibition statutes, as extended by the WEBB-KENYON ACT, March 1, 1913, c. 90, 37 Stat. 699 (U. S. Comp. St. 1916, sec. 8739), were inapplicable to such an interstate shipment. *Moragne* v. *State,* (Ala., 1917), 77 So. 322.

In the trial court and on appeal, in the instant case, it was held that the effect of the Alabama prohibition statutes, in connection with the WEBB-KENYON BILL, made the carrying of such liquors along the state highways, though the carrying be merely through the state as a necessary part of an interstate routing, a violation of the Alabama prohibition statutes. The Supreme Court did not so construe the state and federal statutes. It held that the state statutes did not apply, were never intended to apply, and would be unconstitutional and void if they did apply, to such an interstate carrying or possession of such goods, for the sole purpose of transportation; and that the WEBB-KENYON BILL did not have the effect of extending the statutes to such a case. The broadest scope which any cases have given to the WEBB-KENYON ACT is that it prohibits the shipment or transportation of liquor from one state into another, either when it is intended to be sold in violation of any law of the latter state, or when it is to be received, possessed, or used, in any manner, in violation of the state law; but no case has ever held, and the instant case expressly holds to the contrary, that it was intended to apply to interstate shipments of liquors, where the liquors are merely passing through the state, and are not bought, sold, possessed, stored, or used there in any manner. For full notes on the construction and effect of the WEBB-KENYON BILL, see: L. R. A., 1916C, 299; L. R. A. 1917B, 1229.

CONSTITUTIONAL LAW—ARMY AND NAVY—FREEDOM OF THE PRESS.—A state statute made it a criminal offense to advocate that men should not enlist in the military forces or aid in prosecuting the war. *Held,* circulating a pamphlet which impugns the motives of the President and Congress in entering into the war and seeking by unfounded assertions to incite antagonism to the war, the natural tendency of which is to defer enlistments, is a violation of the statute, which is constitutional. *State* v. *Holm,* (Minn., 1918), 166 N. W. 181.

The defense in this case was that the statute was unconstitutional because it conflicted with section 8 of article 1 of the Federal Constitution, giving Congress power to raise and maintain an army and because it abridges freedom of speech secured by the 14th Amendment. Further the defendant contended that this statute had been superseded and abrogated by the Espionage Law of June 15, 1917. The defendant proceeded on the ground that the power to raise armies and make all laws necessary for carrying conferred powers into effect is exclusive and that this statute is in conflict. Even assuming that the power is exclusive it is hard to see how this act trenches upon the power of the national government. The court held that in enacting it as a police regulation the legislature was well within its province. A law of the state of Illinois prohibiting any body of men other than the militia of the state and the troops of the United States from drilling or parading without a license from the governor is constitutional. *Presser* v. *People of Illi-*